## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re application: **Dutta et al.** | § | |
| | § | |
| Serial No.: **09/817,111** | § | Group Art Unit: **2164** |
| | § | |
| Filed: **March 26, 2001** | § | Examiner: **Rimell, Sam** |
| | § | |
| For: **Method and System for Operating a Rating Server Based on Usage and Download Patterns Within a Peer-To-Peer Network** | § | Attorney Docket No.: **AUS920010052US1** |
| | § | |

35525
PATENT TRADEMARK OFFICE
CUSTOMER NUMBER

**RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Notification of Non-Compliant Appeal Brief was received by Appellants stating that "the Appeal Brief filed on September 6, 2005, is considered non-compliant for failure to comply with one or more provisions of 37 CFR 41.37." A copy of the Notification of Non-Compliant Appeal Brief is attached hereto.

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0447.

In response to the Notification of Non-Compliant Appeal Brief dated January 31, 2007, please reconsider the holding of non-compliance as follows:

## REMARKS

In the Notification of Non-Compliant Appeal Brief, the Appeal Brief filed on September 6, 2005, was held defective because each independent claim must be addressed and correlated to the specification and drawings in the Summary of Invention."

In order to address the Examiner's concerns, an Amended Appeal Brief is submitted herewith. It is respectfully submitted that the Amended Appeal Brief filed herewith addresses the defect noted by the Examiner, and, in general, is in a proper form that is in full compliance with 37 C.F.R. § 41.37. Appellants respectfully request that the Amended Appeal Brief be entered.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Date: February 26, 2007

Respectfully submitted,

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**Docket No. AUS920010052US1** *PATENT*

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| In re application of: **Dutta et al.** | § | |
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| | § | Examiner: **Rimell, Sam** |
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| For: **Method and System for Operating a Rating Server Based on Usage and Download Patterns Within a Peer-To-Peer Network** | § | |

**Commissioner for Patents**
**P.O. Box 1450**
**Alexandria, VA 22313-1450**

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## AMENDED APPEAL BRIEF (37 C.F.R. 41.37)

This brief is in furtherance of the Notice of Appeal, filed in this case on July 30, 2004, and in Response to the Notification of Non-Compliant Appeal Brief filed January 31, 2007.

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0447.

## REAL PARTY IN INTEREST

The real party in interest in this appeal is the following party: International Business Machines Corporation (IBM).

## RELATED APPEALS AND INTERFERENCES

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are no such appeals or interferences.

## STATUS OF CLAIMS

### A. TOTAL NUMBER OF CLAIMS IN APPLICATION

Claims in the application are: 1-54

### B. STATUS OF ALL THE CLAIMS IN APPLICATION

1. Claims canceled: NONE.
2. Claims withdrawn from consideration but not canceled: NONE.
3. Claims pending: 1-54.
4. Claims allowed: NONE.
5. Claims rejected: 1-54.
6. Claims objected to: NONE.

### C. CLAIMS ON APPEAL

The claims on appeal are: 1-54

## STATUS OF AMENDMENTS

An Amendment after Final Office Action was not filed.

## SUMMARY OF CLAIMED SUBJECT MATTER

### A. CLAIM 1 - INDEPENDENT

The subject matter of claim 1 is directed to a method for searching for information within a distributed data processing system. A list of one or more keywords from a search query entered by a user of a first peer node is obtained, and a rating request message comprising the list of one more keywords is sent to a server **(506, Figure 5**, page 27, lines 12-17; **720, Figure 7B**, page 35, line 30 to page 36, line 2). A rating response message comprising a list of node identifiers is received from the server, wherein each listed node identifier identifies a node within a peer-to-peer network from which a file has previously been retrieved in response to a peer-to-peer search that used a keyword in the list of one or more keywords **(726, Figure 7B**, page 36, lines 5-8; **414, 416, 418, Figure 4**, page 26, lines 3-19; **522, Figure 5**, page 28, lines 19-20**).** A peer-to-peer search is initiated from the first peer node by sending a search query message to a plurality of peer nodes, wherein the search query message comprises the search query, and wherein the plurality of peer nodes includes at least one peer node identified in the list of node identifiers from the server **(722, Figure 7B**, page 36, lines 2-4).

### B. CLAIM 10 – INDEPENDENT

The subject matter of claim 10 is directed to a method for facilitating a search for information within a distributed data processing system. A rating request message comprising a list of one more keywords from a peer node is received at a server **(506, Figure 5**, page 27, lines 12-17, **720, Figure 7B**, page 35, line 30 to page 36, line 2). A rating database is searched for matching keywords **(722, Figure 7B**, page 36, lines 2-4). A list of one or more node identifiers for peer nodes in a peer-to-peer network that are associated with the matching keywords is retrieved **(724, Figure 7B**, page 36, lines 4-5), and a rating response message comprising the list of node identifiers, wherein each listed node identifier identifies a node within a peer-to-peer network from which a file has previously been retrieved in response to a peer-to-peer search that

used a keyword in the list of one or more keywords is sent to the peer node (**726, Figure 7B**, page 36, lines 5-8; also see **414, 416, 418, Figure 4**, page 26, lines 3-19, and **522, Figure 5**, page 28, lines 19-20).

## C. CLAIM 19 - INDEPENDENT

The subject matter of claim 19 is directed to an apparatus for searching for information within a distributed data processing system. The apparatus includes obtaining means for obtaining a list of one or more keywords from a search query entered by a user of a first peer node (**502, Figure 5**; page 27, lines 12-19). The apparatus also includes a first sending means for sending a rating request message comprising the list of one more keywords to a server (**506, Figure 5**; page 27, lines 12-19), and a first receiving means for receiving a rating response message comprising a list of node identifiers from the server, wherein each listed node identifier identifies a node within a peer-to-peer network from which a file has previously been retrieved in response to a peer-to-peer search that used a keyword in the list of one or more keywords (**516, Figure 5**, page 27, lines 22-27). An initiating means is provided for initiating a peer-to-peer search from the first peer node by sending a search query message to a plurality of peer nodes, wherein the search query message comprises the search query, and wherein the plurality of peer nodes includes at least one peer node identified in the list of node identifiers from the server (**502, Figure 5**, page 27, lines 27-30).

## D. CLAIM 28 – INDEPENDENT

The subject matter of claim 28 is directed to an apparatus for facilitating a search for information within a distributed data processing system. The apparatus includes a first receiving means for receiving at a server a rating request message comprising a list of one more keywords from a peer node (**506, Figure 5**, page 27, lines 12-19). The apparatus also includes searching means (**512, Figure 5**; page 27, line 21) for searching a rating database (**514, Figure 5**, page 27, lines 21-22) for matching keywords, and retrieving means (**508, Figure 5**, page 27, lines 20-30) for retrieving a list of one or more node identifiers for peer nodes in a peer-to-peer network that

are associated with the matching keywords. A sending means is provided for sending to the peer node a rating response message comprising the list of node identifiers, wherein each listed node identifier identifies a node within a peer-to-peer network from which a file has previously been retrieved in response to a peer-to-peer search that used a keyword in the list of one or more keywords (**502, Figure 5**; page 27, lines 27-30).

## E. CLAIM 37 - INDEPENDENT

The subject matter of claim 37 is directed to a computer program product in a computer readable medium for use within a distributed data processing system for searching for information. The computer program product includes instructions for obtaining a list of one or more keywords from a search query entered by a user of a first peer node, and instructions for sending a rating request message comprising the list of one more keywords to a server **(506, Figure 5**, page 27, lines 12-17; **720, Figure 7B**, page 35, line 30 to page 36, line 2**)**. In addition, the computer program product includes instructions for receiving a rating response message comprising a list of node identifiers from the server, wherein each listed node identifier identifies a node within a peer-to-peer network from which a file has previously been retrieved in response to a peer-to-peer search that used a keyword in the list of one or more keywords **(726, Figure 7B**, page 36, lines 5-8; also see **414, 416, 418, Figure 4**, page 26, lines 3-19, and **522, Figure 5**, page 28, lines 19-20); and instructions for initiating a peer-to-peer search from the first peer node by sending a search query message to a plurality of peer nodes, wherein the search query message comprises the search query, and wherein the plurality of peer nodes includes at least one peer node identified in the list of node identifiers from the server **(722, Figure 7B**, page 36, lines 2-4**)**.

## F. CLAIM 46 - INDEPENDENT

The subject matter of claim 46 is directed to a computer program product in a computer readable medium for use within a distributed data processing system for facilitating a search for information. The computer program product includes instructions for receiving at a server a rating request message comprising a list of one more keywords from a peer node server **(506,**

**Figure 5**, page 27, lines 12-17; **720, Figure 7**, page 35, line 30 to page 36, line 2), and instructions for searching a rating database for matching keywords (**722, Figure 7B**, page 36, lines 2-4). In addition, the computer program product includes instructions for retrieving a list of one or more node identifiers for peer nodes in a peer-to-peer network that are associated with the matching keywords(**724, Figure 7B**, page 36, lines 4-5), and instructions for sending to the peer node a rating response message comprising the list of node identifiers, wherein each listed node identifier identifies a node within a peer-to-peer network from which a file has previously been retrieved in response to a peer-to-peer search that used a keyword in the list of one or more keywords(**726, Figure 7B**, page 36, lines 5-8; also see **414, 416, 418, Figure 4**, page 26, lines 3-19, and **522, Figure 5**, page 28, lines 19-20).

## G. CLAIM 20 - DEPENDENT

The subject matter of claim 20, which depends from claim 19 recites that the apparatus further includes second receiving means for receiving from a second peer node a search result message (**408, Figure 4**, page 25, lines 25-28) for the peer-to-peer search comprising a node identifier for the second peer node, and retrieving means for retrieving from the second peer node a file identified by the search result message (**410, Figure 4**, page 25, line 28-page 29, line 2).

## H. CLAIM 21 - DEPENDENT

The subject matter of claim 21, which depends from claim 20, recites that the apparatus further includes first capturing means for capturing a node identifier for the second peer node from which the file was retrieved (**416, Figure 4**, page 26, lines 3-6), and first storing means for storing at the first peer node the node identifier in association with the list of one or more keywords (**418, Figure 4**, page 26, lines 3-6).

## I. CLAIM 22 - DEPENDENT

The subject matter of claim 22, which depends from claim 21, recites that the apparatus further includes generating means for generating client rating information at the first peer node, wherein the client rating information comprises data relating one or more keywords and one or more captured node identifiers (**518, Figure 5**, page 28, lines 12-19) and second sending means for sending the client rating information to the server (**522, Figure 5**, page 28, lines 19-20).

## J. CLAIM 24 - DEPENDENT

The subject matter of claim 24, which depends from claim 21, recites that the apparatus further includes second capturing means for capturing file usage statistics for the retrieved file (**402, 416, 418, Figure 4**, page 26, lines 3-16), and second storing means for storing at the first peer node the file usage statistics in association with the list of one or more keywords (**418, Figure 4**, page 26, lines 17-19).

## K. CLAIM 25 - DEPENDENT

The subject matter of claim 25, which depends from claim 19, recites that the apparatus further includes registering means for registering the first peer node with the server (**600, Figure 6**, page 33, lines 22-25).

## L. CLAIM 26 – DEPENDENT

The subject matter of claim 26, which depends from claim 19, recites that the apparatus further includes third receiving means for receiving a rating module from the server (**600, Figure 6**, page 33, lines 22-26), and installing means for installing the rating module on first peer node (**324, Figure 3**, page 24, line 24-page 25, line 12).

## M. CLAIM 29 - DEPENDENT

The subject matter of claim 29, which depends from claim 28, recites that the apparatus further includes second receiving means for receiving client rating information from the peer node (**308, Figure 3**, page 19, lines 6-7), and indexing means for indexing the client rating information from the peer node with client rating information from additional peer nodes into the rating database (**310, Figure 3**, page 19, lines 7-8).

## N. CLAIM 30 - DEPENDENT

The subject matter of claim 30, which depends from claim 28, recites that the apparatus further includes initiating means for initiating a financial transaction for a user or an owner of the peer node in response to accepting a request to access the rating database (**600, Figure 6**, page 33, lines 6-30).

## O. CLAIM 31 - DEPENDENT

The subject matter of claim 31, which depends from claim 28, recites that the apparatus further includes registering means for registering the peer node at the server (**600, Figure 6**, page 34, lines 22-24).

## P. CLAIM 32 - DEPENDENT

The subject matter of claim 32, which depends from claim 31, recites that the apparatus further includes downloading means for downloading a rating module to the peer node (**600, Figure 6**, page 33, lines 22-30).

## Q. CLAIM 33 – DEPENDENT

The subject matter of claim 33, which depends from claim 31, recites that the apparatus further includes first identifying means for identifying the registered peer node as a subscribing peer node, wherein a subscribing peer node receives access to the rating database for a periodic fee (**600, Figure 6**, page 34, lines 18-28).

## R. CLAIM 34 - DEPENDENT

The subject matter of claim 34, which depends from claim 31, recites that the apparatus further includes second identifying means for identifying the registered peer node as a rating peer node, wherein a rating peer node is allowed to submit client rating information to the server (**600, Figure 6**, page 33, lines 22-25).

## S. CLAIM 35 - DEPENDENT

The subject matter of claim 35, which depends from claim 34, recites that the apparatus further includes first providing means for providing the rating peer node with access to the rating database for no fee (**600, Figure 6**, page 33, lines 25-27).

## T. CLAIM 36 - DEPENDENT

The subject matter of claim 36, which depends from claim 34, recites that the apparatus further includes second providing means for providing the rating peer node with access to the rating database for a predetermined fee (**600, Figure 6**, page 33, lines 27-30).

## GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to review on appeal are as follows:

1. Whether claims 1-3, 7-10, 13, 14, 17, 19-21, 25-28, 31, 32, 35, 37-39, 43-46, 49, 50, and 53 are anticipated by Van Stam, U.S. Patent Application Publication Number US 2003/0014759 A1, under 35 U.S.C. § 102(e).

2. Whether claims 12, 15, 18, 30, 33, 36, 48, 51 and 54 are unpatentable over Van Stam, U.S. Patent Application Publication Number US 2003/0014759 A1, under 35 U.S.C. § 103(a).

3. Whether claims 4-6, 11, 16, 22-24, 29, 34, 40-42, 47 and 52 are unpatentable over Van Stam, U.S. Patent Application Publication Number US 2003/0014759 A1, in view of Carey et al., U.S. Patent Application Publication No. US 2002/0112035 A1, under 35 U.S.C. § 103(a).

## ARGUMENT

### A. GROUND OF REJECTION 1 (Claims 1-3, 7-10, 13, 14, 17, 19-21, 25-28, 31, 32, 35, 37-39, 43-46, 49, 50 and 53)

Claims 1-3, 7-10, 13, 14, 17, 19-21, 25-28, 31, 32, 35, 37-39, 43-46, 49, 50 and 53 are rejected as being anticipated by Van Stam, U.S. Patent Application Publication Number US 2003/0014759 A1 (hereinafter "Van Stam"), under 35 U.S.C. § 102(e).

The claims stand and fall together.

Arguments in support of patentability

Independent claim 10 is the broadest claim in the patent application. Hence, for purposes of this argument, Appellant argues for the patentability of the present invention using claim 10 as an exemplary claim. Whereas independent claim 1 is written from the perspective of a method that is performed at a peer node (client), independent claim 10 is written from the perspective of a method that is performed at a server that supports the rating databases that are used by the peer nodes in a peer-to-peer network. Within independent claim 1, a peer node sends a rating request message to the server, receives a rating request message from the server, and then commences a peer-to-peer node search from the peer node using the retrieved information. In contrast, within independent claim 10, a server receives a rating request message, searches a rating database for matching keywords, retrieves a list of one or more node identifiers for peer nodes, and then returns a rating response message to the requesting peer node. Given that the most important claim element that is disputed with respect to the pending rejection is contained within each independent claim, and given that the most important claim element centers on an action by the server as recited within independent claim 10, Appellant argues that independent claim 10 is the broadest claim in the patent application and is appropriately used as an exemplary claim.

Peer-to-peer searches typically result in many search hits, and only a few files are typically retrieved after a peer-to-peer search. Although the present invention and the system that is disclosed in Van Stam both provide an improved peer-to-peer search mechanism that should reduce the quantity of search hits and that should improve the quality of search hits, the methodologies are very different.

Van Stam discloses a computer system that facilitates peer-to-peer network interactions. In contrast to typical peer-to-peer interactions, though, Van Stam discloses a system in which

peer nodes in a peer-to-peer network correlate user preference information during a peer-to-peer search. This is briefly described in the "Summary of the Invention" section of Van Stam, which states in paragraph 0007:

> A network-based intelligent system for predicting ratings for items of media content according to how likely they are to appeal to a user provides a parallel, peer-to-peer system and method for collaborative suggestions and propagation of media. An originating client queries a targeted peer by transmitting a list indicative of its user's preferences. The targeted peer evaluates the similarity of the transmitted list with a list of its own. If the two clients are sufficiently similar, the comparison continues in an interactive fashion. .If the two clients are dissimilar, either the originating client or the targeted peer may terminate the query, depending on the stage of the interaction; or the targeted peer may route the query to a second targeted peer. The interaction culminates in the originating client downloading client listings from the targeted peer to generate suggestions for the user. In addition to the lists of preferences, the originating client may download actual content items from the targeted peers.

As should be apparent by reference to the cited paragraph from Van Stam, the peer nodes in a peer-to-peer network correlate preferences that have been specified by users. If the preference lists of two users meet some statistical threshold, then the peer-to-peer search may be regarded as being successful and may be terminated at the successful node; in other words, it would not forward the peer-to-peer search to another peer node. In this manner, a search does not rely only upon keyword matching; user preference information is used as a type of metadata to narrow the scope of the search in an effort to improve the quality of the results of peer-to-peer searches, which are able to return an abundance of information if there are many nodes within the peer-to-peer network.

The features of the present invention that are discussed hereinbelow are not disclosed in Van Stam, yet they are reflected in the independent claim 10, as amended after non-final rejection. Independent claim 10, as amended, contains the following elements (the amended language has been emphasized in a bold font in order to draw attention to the claim element that has been added after the non-final Office action to distinguish the claims from Van Stam):

> 10. A method for facilitating a search for information within a distributed data processing system, the method comprising: receiving at a server a rating request message comprising a list of one more keywords from a peer node; searching a

rating database for matching keywords; retrieving a list of one or more node identifiers for peer nodes in a peer-to-peer network that are associated with the matching keywords; and sending to the peer node a rating response message comprising the list of node identifiers, **wherein each listed node identifier identifies a node within a peer-to-peer network from which a file has previously been retrieved in response to a peer-to-peer search that used a keyword in the list of one or more keywords.**

These claim elements are not disclosed in Van Stam nor the other prior art references of record.

With respect to the present invention, a peer-to-peer network improves its search results through a feedback mechanism that is based on the files that are retrieved in response to peer-to-peer searches. More specifically, a user or a peer node decides, in some manner, which file or files are to be retrieved after the peer-to-peer search results are reviewed. The present invention does not capture the decision process; however, the present invention does capture the results of the decision process by taking advantage of the following novel observation: it may be assumed that any file that is retrieved from another peer node as a result of a search hit from a peer-to-peer search is much more significantly relevant with respect to other files that nave not been retrieved in response to their associated search hits. Hence, the present invention implements a mechanism in which, for each completed search, a peer node gathers rating information about file retrievals in response to search hits, and the peer node eventually forwards the rating information to a rating server; these features are reflected in dependent claim 3 and similar dependent claims. The rating results reflect the degree to which peer-to-peer searches have successfully located content for keywords.

The interpretation of the present invention as supporting a feedback mechanism within a peer-to-peer network is completed by the following concept. Prior to initiating a new peer-to-peer search, a peer node consults one or more rating databases at one or more servers to retrieve a set of initial nodes to which the peer node should initiate the new search, thereby maximizing the speed and success of finding relevant content. This particular feature is reflected in the amended claim language, which has been added to all of the independent claims. The amended claim language specifically recites the content of a rating response message, i.e. "wherein each listed node identifier identifies a node within a peer-to-peer network from which a file has previously been retrieved in response to a peer-to-peer search that used a keyword in the list of one or more

keywords". After receiving this information, the peer node then performs the new search using the received list of node identifiers as identifying a set of initial nodes for the peer-to-peer search.

In this manner, the present invention improves the results of a peer-to-peer search within the peer-to-peer network by limiting the number of root nodes that are used to initiate a search and by increasing the quality of the root nodes that are chosen. This selection process is supported by databases that are maintained on central servers within the peer-to-peer network. These databases, termed "rating databases" in the claim terminology, contain information about files that have been retrieved in response to previous searches on particular keywords. In essence, it is assumed that significantly relevant content has previously been found for particular keywords when a file is retrieved based on a search hit.

The final rejection attempted to address the amended claim language, i.e. "wherein each listed node identifier identifies a node within a peer-to-peer network from which a file has previously been retrieved in response to a peer-to-peer search that used a keyword in the list of one or more keywords". On page 3 of the final Office action, last paragraph, to page 4, first paragraph, the rejection of claim 10 states the following:

> The listing of nodes provided to each peer is a complete listing of all the nodes connected to the network. Since at least some of the nodes share lists (files) with other nodes, the listing of nodes includes those nodes from which a file was retrieved by another peer at some point during the exchange of files.

As noted in the rejection, Van Stam discloses that the listing of nodes that are provided to a peer is a list of all of the nodes in the network. The argument in the rejection is illogical; moreover, the logic of the argument is erroneous with respect to its interpretation of the claim language.

First, the listing of nodes that are provided to a peer node as disclosed in Van Stam is not equivalent to the listing of nodes that are provided to a peer node as stated in the claims of the present invention. In Van Stam, the listing of nodes contains all nodes in the network; hence, any node that could be in the listing ***is*** in the listing. However, the claims require that "each listed node identifier identifies a node within a peer-to-peer network from which a file has previously been retrieved in response to a peer-to-peer search that used a keyword in the list of one or more keywords"; the claim language is very specific. In the present invention, the list of peer nodes

does not identify extra peer nodes or any and all nodes; the list of peer nodes is a specific subset of the peer nodes within the network. As explained above, this list of peer nodes is very important to the peer node that has requested the list via the rating request message. Prior to initiating a new peer-to-peer search, a peer node consults one or more rating databases at one or more servers to retrieve a set of initial nodes to which the peer node should initiate the new search, thereby maximizing the speed and success of finding relevant content. As argued by the rejection, the system of Van Stam could only initiate a peer-to-peer search to all of the peer nodes in the listing or possibly a random subset because the peer node that receives the listing cannot discern from the listing which subset of peer nodes that it should use.

Moreover, the fact that the listing of nodes in Van Stam hypothetically might include some nodes from which a file was retrieved by another peer at some point during an exchange of files does not necessarily mean that files were retrieved from those nodes specifically because those files at those nodes contained the desired keywords, which is a feature that is accomplished by the present invention and that is reflected in the claim language for the present invention. The rejection has grasped at straws and has asserted a hypothetical scenario that is irrelevant because the disclosed actions in Van Stam are not equivalent to the features that are claimed as is required by a proper anticipation rejection.

Rejections are deficient with respect to requirements for a proper anticipation rejection

Clearly, the rejection has not carefully considered the elements of claim 10 nor has the rejection pointed out the claimed features within Van Stam as is required for a proper anticipation rejection. More importantly, Van Stam does not disclose the claimed features and cannot be used as an anticipation reference. As stated at MPEP § 2131: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Hence, the rejection of claim 10 over Van Stam is improper. For this and other reasons, Appellants argue that the position of the Examiner should be reversed and that the rejection of claim 10 should not be upheld.

Independent claims 1, 19, 28, 37 and 46 are also not anticipated by Van Stam for similar reasons as discussed above with respect to claim 10, and claims 2, 3, 7-9, 13, 14, 17, 20, 21, 25-27, 31, 32, 35, 38, 39, 43-45, 49, 50 and 53 are not anticipated by Van Stam, at least by virtue of their dependency.

**B. GROUND OF REJECTION 2 (Claims 12, 15, 18, 30, 33, 36, 48, 51 and 54)**

Claims 12, 15, 18, 30, 33, 36, 48, 51 and 54 are rejected as being unpatentable over Van Stam, U.S. Patent Application Publication Number US 2003/0014759 A1 (hereinafter "Van Stam"), under 35 U.S.C. § 103(a).

Claims 12, 15, 18, 30, 33, 36, 48, 51 and 54 are dependent claims which depend from one of independent claims 10, 28 and 46 and are not obvious in view of Van Stam, at least by virtue of their dependency.

**C. GROUND OF REJECTION 3 (Claims 4-6, 11, 16, 22-24, 29, 34, 40-42, 47 and 52)**

Claims 4-6, 11, 16, 22-24, 29, 34, 40-42, 47 and 52 are rejected as being unpatentable over Van Stam, U.S. Patent Application Publication Number US 2003/0014759 A1 (hereinafter "Van Stam"), in view of Carey et al., U.S. Patent Application Publication No. US 2002/0112035 A1 (hereinafter "Carey"), under 35 U.S.C. § 103(a).

Claims 4-6, 11, 16, 22-24, 29, 34, 40-42, 47 and 52 are dependent claims which depend from one of independent claims 1, 10, 19, 28, 37 and 46 and are not obvious over Van Stam in view of Carey et al., at least by virtue of their dependency.

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## CLAIMS APPENDIX

The text of the claims involved in the appeal are:

1. A method for searching for information within a distributed data processing system, the method comprising:

obtaining a list of one or more keywords from a search query entered by a user of a first peer node;

sending a rating request message comprising the list of one more keywords to a server;

receiving a rating response message comprising a list of node identifiers from the server. wherein each listed node identifier identifies a node within a peer-to-peer network from which a file has previously been retrieved in response to a peer-to-peer search that used a keyword in the list of one or more keywords; and

initiating a peer-to-peer search from the first peer node by sending a search query message to a plurality of peer nodes, wherein the search query message comprises the search query, and wherein the plurality of peer nodes includes at least one peer node identified in the list of node identifiers from the server.

2 The method of claim 1 further comprising:

receiving from a second peer node a search result message for the peer-to-peer search comprising a node identifier for the second peer node; and

retrieving from the second peer node a file identified by the search result message.

3. The method of claim 2 further comprising:

capturing a node identifier for the second peer node from which the file was retrieved; and

storing at the first peer node the node identifier in association with the list of one or more keywords.

4. The method of claim 3 further comprising:

generating client rating information at the first peer node, wherein the client rating information comprises data relating one or more keywords and one or more captured node identifiers; and

sending the client rating information to the server.

5. The method of claim 4 wherein the client rating information comprises data relating file usage statistics for the retrieved file and one or more captured node identifiers.

6. The method of claim 3 further comprising:

capturing file usage statistics for the retrieved file; and

storing at the first peer node the file usage statistics in association with the list of one or more keywords.

7. The method of claim 1 further comprising:

registering the first peer node with the server.

8. The method of claim 1 further comprising:

receiving a rating module from the server; and

installing the rating module on first peer node.

9. The method of claim 8 wherein the rating module is installed as part of a process of registering the first peer node with the server.

10. A method for facilitating a search for information within a distributed data processing system, the method comprising:

receiving at a server a rating request message comprising a list of one more keywords from a peer node;

searching a rating database for matching keywords;

retrieving a list of one or more node identifiers for peer nodes in a peer-to-peer network that are associated with the matching keywords; and

sending to the peer node a rating response message comprising the list of node identifiers, wherein each listed node identifier identifies a node within a peer-to-peer network from which a file has previously been retrieved in response to a peer-to-peer search that used a keyword in the list of one or more keywords

11. The method of claim 10 further comprising:

receiving client rating information from the peer node; and

indexing the client rating information from the peer node with client rating information from additional peer nodes into the rating database.

12. The method of claim 10 further comprising:

initiating a financial transaction for a user or an owner of the peer node in response to accepting a request to access the rating database.

13. The method of claim 10 further comprising:

registering the peer node at the server.

14. The method of claim 13 further comprising:

downloading a rating module to the peer node.

15. The method of claim 13 further comprising:

identifying the registered peer node as a subscribing peer node, wherein a subscribing peer node receives access to the rating database for a periodic fee.

16. The method of claim 13 further comprising:

identifying the registered peer node as a rating peer node, wherein a rating peer node is allowed to submit client rating information to the server.

17. The method of claim 16 further comprising:

providing the rating peer node with access to the rating database for no fee.

18. The method of claim 16 further comprising:

providing the rating peer node with access to the rating database for a predetermined fee.

19. An apparatus for searching for information within a distributed data processing system, the apparatus comprising:

obtaining means for obtaining a list of one or more keywords from a search query entered by a user of a first peer node;

first sending means for sending a rating request message comprising the list of one more keywords to a server;

first receiving means for receiving a rating response message comprising a list of node identifiers from the server, wherein each listed node identifier identifies a node within a peer-to-peer network from which a file has previously been retrieved in response to a peer-to-peer search that used a keyword in the list of one or more keywords; and

initiating means for initiating a peer-to-peer search from the first peer node by sending a search query message to a plurality of peer nodes, wherein the search query message comprises the search query, and wherein the plurality of peer nodes includes at least one peer node identified in the list of node identifiers from the server.

20. The apparatus of claim 19 further comprising:

second receiving means for receiving from a second peer node a search result message for the peer-to-peer search comprising a node identifier for the second peer node; and

retrieving means for retrieving from the second peer node a file identified by the search result message.

21. The apparatus of claim 20 further comprising:

first capturing means for capturing a node identifier for the second peer node from which the file was retrieved; and

first storing means for storing at the first peer node the node identifier in association with the list of one or more keywords.

22. The apparatus of claim 21 further comprising:

generating means for generating client rating information at the first peer node, wherein the client rating information comprises data relating one or more keywords and one or more captured node identifiers; and

second sending means for sending the client rating information to the server.

23. The apparatus of claim 22 wherein the client rating information comprises data relating file usage statistics for the retrieved file and one or more captured node identifiers.

24. The apparatus of claim 21 further comprising:

second capturing means for capturing file usage statistics for the retrieved file; and

second storing means for storing at the first peer node the file usage statistics in association with the list of one or more keywords.

25. The apparatus of claim 19 further comprising:

registering means for registering the first peer node with the server.

26. The apparatus of claim 19 further comprising:

third receiving means for receiving a rating module from the server; and

installing means for installing the rating module on first peer node.

27. The apparatus of claim 26 wherein the rating module is installed as part of a process of registering the first peer node with the server.

28. An apparatus for facilitating a search for information within a distributed data processing system, the apparatus comprising:

first receiving means for receiving at a server a rating request message comprising a list of one more keywords from a peer node;

searching means for searching a rating database for matching keywords;

retrieving means for retrieving a list of one or more node identifiers for peer nodes in a peer-to-peer network that are associated with the matching keywords; and

sending means for sending to the peer node a rating response message comprising the list of node identifiers, wherein each listed node identifier identifies a node within a peer-to-peer network from which a file has previously been retrieved in response to a peer-to-peer search that used a keyword in the list of one or more keywords.

29. The apparatus of claim 28 further comprising:

second receiving means for receiving client rating information from the peer node; and

indexing means for indexing the client rating information from the peer node with client rating information from additional peer nodes into the rating database.

30. The apparatus of claim 28 further comprising:

initiating means for initiating a financial transaction for a user or an owner of the peer node in response to accepting a request to access the rating database.

31. The apparatus of claim 28 further comprising:

registering means for registering the peer node at the server.

32. The apparatus of claim 31 further comprising:

downloading means for downloading a rating module to the peer node.

33. The apparatus of claim 31 further comprising:

first identifying means for identifying the registered peer node as a subscribing peer node, wherein a subscribing peer node receives access to the rating database for a periodic fee.

34. The apparatus of claim 31 further comprising:

second identifying means for identifying the registered peer node as a rating peer node, wherein a rating peer node is allowed to submit client rating information to the server.

35. The apparatus of claim 34 further comprising:

first providing means for providing the rating peer node with access to the rating database for no fee.

36. The apparatus of claim 34 further comprising:

second providing means for providing the rating peer node with access to the rating database for a predetermined fee.

37. A computer program product in a computer readable medium for use within a distributed data processing system for searching for information, the computer program product comprising:

instructions for obtaining a list of one or more keywords from a search query entered by a user of a first peer node;

instructions for sending a rating request message comprising the list of one more keywords to a server;

instructions for receiving a rating response message comprising a list of node identifiers from the server, wherein each listed node identifier identifies a node within a peer-to-peer network from which a file has previously been retrieved in response to a peer-to-peer search that used a keyword in the list of one or more keywords; and

instructions for initiating a peer-to-peer search from the first peer node by sending a search query message to a plurality of peer nodes, wherein the search query message comprises the search query, and wherein the plurality of peer nodes includes at least one peer node identified in the list of node identifiers from the server.

38. The computer program product of claim 37 further comprising:

instructions for receiving from a second peer node a search result message for the peer-to-peer search comprising a node identifier for the second peer node; and

instructions for retrieving from the second peer node a file identified by the search result

message.

39. The computer program product of claim 38 further comprising:

instructions for capturing a node identifier for the second peer node from which the file was retrieved; and

instructions for storing at the first peer node the node identifier in association with the list of one or more keywords.

40. The computer program product of claim 39 further comprising:

instructions for generating client rating information at the first peer node, wherein the client rating information comprises data relating one or more keywords and one or more captured node identifiers; and

instructions for sending the client rating information to the server.

41. The computer program product of claim 40 wherein the client rating information comprises data relating file usage statistics for the retrieved file and one or more captured node identifiers.

42. The computer program product of claim 39 further comprising:

instructions for capturing file usage statistics for the retrieved file; and

instructions for storing at the first peer node the file usage statistics in association with the list of one or more keywords.

43. The computer program product of claim 37 further comprising:

instructions for registering the first peer node with the server.

44. The computer program product of claim 37 further comprising:

instructions for receiving a rating module from the server; and

instructions for installing the rating module on first peer node.

45. The computer program product of claim 44 wherein the rating module is installed as part of a process of registering the first peer node with the server.

46. A computer program product in a computer readable medium for use within a distributed data processing system for facilitating a search for information, the computer program product comprising:

instructions for receiving at a server a rating request message comprising a list of one more keywords from a peer node;

instructions for searching a rating database for matching keywords;

instructions for retrieving a list of one or more node identifiers for peer nodes in a peer-to-peer network that are associated with the matching keywords; and

instructions for sending to the peer node a rating response message comprising the list of node identifiers, wherein each listed node identifier identifies a node within a peer-to-peer network from which a file has previously been retrieved in response to a peer-to-peer search that used a keyword in the list of one or more keywords.

47. The computer program product of claim 46 further comprising:

instructions for receiving client rating information from the peer node; and

instructions for indexing the client rating information from the peer node with client rating information from additional peer nodes into the rating database.

48. The computer program product of claim 46 further comprising:

instructions for initiating a financial transaction for a user or an owner of the peer node in response to accepting a request to access the rating database.

49. The computer program product of claim 46 further comprising:

instructions for registering the peer node at the server.

50. The computer program product of claim 49 further comprising:

instructions for downloading a rating module to the peer node.

51. The computer program product of claim 49 further comprising:

instructions for identifying the registered peer node as a subscribing peer node, wherein a subscribing peer node receives access to the rating database for a periodic fee.

52. The computer program product of claim 49 further comprising:

instructions for identifying the registered peer node as a rating peer node, wherein a rating peer node is allowed to submit client rating information to the server.

53. The computer program product of claim 52 further comprising:

instructions for providing the rating peer node with access to the rating database for no fee.

54. The computer program product of claim 52 further comprising:

instructions for providing the rating peer node with access to the rating database for a predetermined fee.

## EVIDENCE APPENDIX

There is no evidence to be presented.

## RELATED PROCEEDINGS APPENDIX

There are no related proceedings.

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*--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

The Appeal Brief filed on *06 September 2005* is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file anamended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).

3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).

4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))

6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).

7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).

8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).

9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).

10. ☐ Other (including any explanation in support of the above items):

*Each independent claim must be addressed and correlated to the specification and drawings in the Summary of Invention .*

Sam Rimell
Primary Examiner
Art Unit: 2164